

Richard M. Heimann (State Bar No. 63607)
Kelly M. Dermody (State Bar No. 171716)
Eric B. Fastiff (State Bar No. 182260)
Brendan Glackin (State Bar No. 199643)
Dean Harvey (State Bar No. 250298)
Anne B. Shaver (State Bar No. 255928)
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, California 94111-3339
Telephone: 415.956.1000
Facsimile: 415.956.1008

Joseph R. Saveri (State Bar No. 130064)
Lisa J. Leebove (State Bar No. 186705)
James G. Dallal (State Bar No. 277826)
JOSEPH SAVERI LAW FIRM
255 California, Suite 450
San Francisco, CA 94111
Telephone: 415. 500.6800
Facsimile: 415. 500.6803

Interim Co-Lead Counsel for Plaintiff Class

[Additional counsel listed on signature page]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: January 17, 2013
Time: 1:30 p.m.
Courtroom: 8, 4th Floor
Judge: The Honorable Lucy H. Koh

1 The parties submit this joint statement for the January 17, 2013 Case Management
2 Conference.

3 **I. Case Progress**

4 Since the September 12, 2012 Case Management Conference, the case has progressed as
5 follows.

6 Plaintiffs filed their Motion for Class Certification (Dkt. No. 187) and supporting papers
7 on October 1, 2012.

8 Defendants filed their joint Opposition to Plaintiffs' Motion for Class Certification (Dkt.
9 No. 209) and supporting papers on November 12, 2012. Concurrently, Defendants filed a Motion
10 to Strike the report of Plaintiffs' expert, Dr. Edward Leamer (Dkt. No. 210), and moved for an
11 evidentiary hearing on class certification issues (Dkt. No. 213).

12 Plaintiffs objected to Defendants' Motion to Strike and moved the Court to return the
13 papers to Defendants or, in the alternative, for additional pages in their Reply in support of the
14 Motion for Class Certification. (Dkt. No. 232.) Plaintiffs also opposed Defendants' request for
15 an evidentiary hearing. (Dkt. No. 237.) The Court denied Plaintiffs' request to reject
16 Defendants' Motion to Strike, but allowed Plaintiffs 25 pages in which to respond. (Dkt. No.
17 242.) The Court instructed that Defendants would not be permitted a reply. *Id.* The Court also
18 denied the motion for an evidentiary hearing. *Id.*

19 Plaintiffs filed their Consolidated Reply in Support of Motion for Class Certification and
20 Opposition to Defendants' Motion to Strike (Dkt. No. 247) and supporting papers on December
21 10, 2012. On December 12, 2012, Plaintiffs filed a letter of correction to their consolidated reply
22 brief and reply expert report. (Dkt. No. 253.)

23 Defendants filed a Joint Administrative Motion for Leave to Supplement the Record in
24 Support of Defendants' Opposition to Plaintiffs' Motion for Class Certification on January 9,
25 2013. (Dkt. No. 263.) Plaintiffs will file an opposition to Defendants' Administrative Motion
26 pursuant to Local Rule 7-11(b).
27
28

The hearing on Plaintiffs' Motion for Class Certification is set for January 17, 2013. (Dkt. No. 183.) The Court also continued the Case Management Conference previously set for December 12, 2012 to January 17, 2013. (Dkt. No. 251.)

II. Case Management

The Court's September 12, 2012 Case Management Order set forth the major deadlines for the litigation from class certification through trial. (Dkt. No. 183.) No party is aware of a case scheduling dispute at this time.

III. Discovery Progress

The fact discovery cutoff is March 29, 2013 (Dkt. No. 183), and fact discovery has continued while the parties briefed class certification. Defendants took the depositions of all five named Plaintiffs between October 12, 2012 and October 29, 2012, and deposed Plaintiffs' expert, Dr. Edward Leamer, on October 26, 2012. Plaintiffs deposed ten fact witnesses between August 2, 2012 and December 5, 2012, and have scheduled ten additional depositions for January and February, 2013.¹ Plaintiffs have also deposed 30(b)(6) witnesses regarding Defendants' employee data and deposed Defendants' expert, Professor Kevin Murphy, on December 3, 2012.

On December 17, 2012, Plaintiffs asked Defendants to provide deposition dates for remaining witnesses Defendants identified, in their Rule 26 initial disclosures, as potential trial witnesses. Defendants have not yet provided dates. The parties are meeting and conferring on this issue.

The parties have also continued to meet and confer regarding additional document productions. At Plaintiffs' request, certain Defendants have agreed to supplement their document productions with additional custodians, and to run additional search terms on existing custodians,

¹ Plaintiffs have deposed the following individuals: Arnon Geshuri (Google), Sharon Coker (Lucasfilm), Deborah Conrad (Intel), Lori McAdams (Pixar), Jim Morris (Pixar), Pamela Zissimos (Pixar), Donna Morris (Adobe), Jeff Vijungco (Adobe), Danielle Lambert (Apple), and Mark Bentley (Apple). The parties have scheduled or conferred about scheduling the depositions of the following individuals: Lazlo Bock (Google), Eric Schmidt (Google), Shona Brown (Google), Paul Otellini (Intel), Bruce Chizen (Adobe), Ed Catmull (Pixar), Bill Campbell (Intuit), Debbie Streeter (Adobe), Patricia Murray (Intel), Michelle Maupin (Lucasfilm), and Jan van der Voort (Lucasfilm).

1 and have produced or are in the process of producing responsive documents. Plaintiffs also
2 served a Third Set of Requests for Production of Documents on all Defendants on November 6,
3 2012, to which Defendants responded on December 10, 2012.

4 There are no discovery matters presently under submission to Magistrate Judge Grewal.
5 However, Plaintiffs anticipate filing a motion to compel production of certain documents that
6 Google designated as privileged in logs produced on December 28, 2012 and January 7, 2013.²
7 The relevant documents were communicated to Intuit Chairman and Apple Director Bill
8 Campbell (who Google claims was an advisor at the time of his communications), at his
9 intuit.com email address, and/or communicated to Intel CEO Paul Otellini (a member of the
10 Board of directors of Google at the time of the communications) at his intel.com email address.
11 Google maintains that the use of these email communications did not waive its asserted attorney-
12 client privilege with respect to those communications. In light of the March 29, 2013 discovery
13 deadline, Plaintiffs hope to resolve this dispute as expeditiously as possible, and are meeting and
14 conferring with Defendants regarding an abbreviated briefing schedule.

23 ² On December 28, 2012, Google produced a privilege log regarding documents of Google
24 executive Laszlo Bock that contains 2,281 entries. On January 7, 2013, Google produced a
25 privilege log regarding documents of Google executive Shona Brown that contains 579 entries,
26 and a privilege log regarding documents of Eric Schmidt that contains 72 entries. All of these log
27 entries reflected documents held back as privileged from Google's supplemental document
28 production that was substantially completed on December 7, 2012. At Plaintiffs' request, the
parties have agreed to postpone the deposition of Mr. Bock, previously scheduled for January 10,
in an effort to resolve privilege disputes in advance of his deposition. Plaintiffs seek to resolve
the issue as to Ms. Brown and Mr. Schmidt prior to their depositions, currently scheduled for
January 30, 2013, and February 21, 2013, respectively.

1 Dated: January 10, 2013

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

2
3 By: /s/ Kelly M. Dermody
Kelly M. Dermody

4 Richard M. Heimann (State Bar No. 63607)
5 Kelly M. Dermody (State Bar No. 171716)
6 Eric B. Fastiff (State Bar No. 182260)
7 Brendan Glackin (State Bar No. 199643)
8 Dean Harvey (State Bar No. 250298)
9 Anne B. Shaver (State Bar No. 255928)
275 Battery Street, 29th Floor
San Francisco, California 94111-3339
Telephone: 415.956.1000
Facsimile: 415.956.1008

Interim Co-Lead Counsel for Plaintiff Class

10 Dated: January 10, 2013

JOSEPH SAVERI LAW FIRM

11
12 By: /s/ Joseph R. Saveri
13 Joseph R. Saveri

14 Joseph R. Saveri (State Bar No. 130064)
15 Lisa J. Leebove (State Bar No. 186705)
16 James G. Dallal (State Bar No. 277826)
17 JOSEPH SAVERI LAW FIRM
255 California, Suite 450
San Francisco, CA 94111
Telephone: 415. 500.6800
Facsimile: 415. 500.6803

Interim Co-Lead Counsel for Plaintiff Class

18
19 Dated: January 10, 2013

O'MELVENY & MYERS LLP

20
21 By: /s/ Michael F. Tubach
Michael F. Tubach

22 George Riley
23 Michael F. Tubach
24 Christina J. Brown
Two Embarcadero Center, 28th Floor
San Francisco, CA 94111
25 Telephone: (415) 984-8700
26 Facsimile: (415) 984-8701

Attorneys for Defendant APPLE INC.

1 Dated: January 10, 2013

KEKER & VAN NEST LLP

2
3 By: /s/ Daniel Purcell
Daniel Purcell

4 John W. Keker
5 Daniel Purcell
6 Eugene M. Page
7 Paula L. Blizzard
8 710 Sansome Street
San Francisco, CA 94111
Telephone: (415) 381-5400
Facsimile: (415) 397-7188

9 *Attorneys for Defendant LUCASFILM LTD.*

10 Dated: January 10, 2013

JONES DAY

11 By: /s/ David C. Kiernan
12 David C. Kiernan

13 Robert A. Mittelstaedt
14 Craig A. Waldman
15 David C. Kiernan
16 555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: (415) 626-3939
Facsimile: (415) 875-5700

17 *Attorneys for Defendant ADOBE SYSTEMS, INC.*

18 Dated: January 10, 2013

JONES DAY

19 By: /s/ Robert A. Mittelstaedt
20 Robert A. Mittelstaedt

21 Robert A. Mittelstaedt
22 Craig E. Stewart
23 555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: (415) 626-3939
Facsimile: (415) 875-5700

24 Catherine T. Zeng
25 1755 Embarcadero Road
26 Palo Alto, CA 94303
Telephone: (650) 739-3939
Facsimile: (650) 739-3900

27 *Attorneys for Defendant INTUIT INC.*
28

1 Dated: January 10, 2013

MAYER BROWN LLP

2
3 By: /s/ Lee H. Rubin
Lee H. Rubin

4 Lee H. Rubin
5 Edward D. Johnson
6 Donald M. Falk
7 Two Palo Alto Square
8 3000 El Camino Real, Suite 300
9 Palo Alto, CA 94306-2112
Telephone: (650) 331-2057
Facsimile: (650) 331-4557

Attorneys for Defendant GOOGLE INC.

10 Dated: January 10, 2013

BINGHAM McCUTCHEN LLP

11 By: /s/ Frank M. Hinman
12 Frank M. Hinman

13 Donn P. Pickett
14 Frank M. Hinman
15 Three Embarcadero Center
16 San Francisco, CA 94111
17 Telephone: (415) 393-2000
18 Facsimile: (415) 383-2286

Attorneys for Defendant INTEL CORPORATION

19 Dated: January 10, 2013

COVINGTON & BURLING LLP

20 By: /s/ Emily Johnson Henn
21 Emily Johnson Henn

22 Robert T. Haslam, III
23 Emily Johnson Henn
24 333 Twin Dolphin Drive, Suite 700
25 Redwood City, CA 94065
26 Telephone: (650) 632-4700

Attorneys for Defendant PIXAR

27 **ATTESTATION:** Pursuant to General Order 45, Part X-B, the filer attests that concurrence in
28 the filing of this document has been obtained from all signatories.